HUMAN EVENTS

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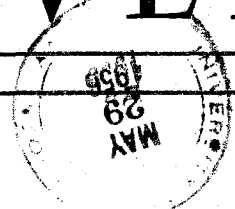
News Section *Printed in Two Sections*



Around the Town: Wits have dubbed the State Department's conducted tour of Indonesian Premier Sukarno, "State's folly." The fact that Sukarno is pro-Red is now beginning to dawn on many here. Some members of Congress are asking why the press has failed to bring out two damning facts about the fez-wearing Premier's pedigree:

(1) Sukarno, during the Second World War from 1942 to 1945, was a Japanese collaborator (when Japanese forces controlled his part of the world) and indeed Sukarno actually became President of the Indonesian Republic by appointment from the Japanese authorities (not by election). The Japanese army gave him a huge store of arms by which he kept his power.

(2) Sukarno, at the end of World War II, collaborated with the Communists, placed many of them in his government and hailed Moscow as "progressive." Hatta, Sukarno's vice president, was Moscow-trained. The Indonesian regime of Sukarno by no means represents all the people it claims to represent. For instance, in the Moluccas (islands of Indonesia), Christian and anti-Communist elements have set up a republic independent of Sukarno's pink regime.

When Sukarno first appeared in Washington, the average native remarked cynically, "How much money is he trying to get from us?" Now, after watching his performance and learning his antecedents, it is asked: "Why do we pay the expenses for the tour of this fellow?"

● Believe it or not — there are already plans under way, by various groups, to name their favorites for the GOP presidential nomination in 1960. News of one of these efforts has begun to leak out, and bits and pieces of the blueprints and backers have come to HUMAN EVENTS. The name of the man who is not unwilling to succeed Ike in '60 is none other than Ezra Taft Benson, Secretary of Agriculture. Benson thinks he has a chance, if the proper preparations are made. Mrs. Ezra — it is said — has a powerful influence on her husband and is most enthusiastic about the whole idea.

Two big factors are counted on — by those involved — to favor the project to make Benson President: (1) the power of the Mormon Church of which Benson is one of the Apostles; (2) a friendly and very wealthy industrialist who is purportedly willing to pay the bills for the publicity build-up. Additionally, evidence of the progress of the affair is noted in reports that a writer has been engaged at a fancy sum to write a biography about Benson, and arrangements have been initiated for Benson to meet publishers and editors of a famous mass-circulation magazine as a preliminary to the mag doing a profile of him.

● In the present inter-service imbroglio, the Air Force is getting back at the Navy after 8 years — as veteran defense reporters recall the facts and chronology. In 1948, the Navy started leaking documents which touched off the fight on the Air Force's B-36 bomber. At that time, a Navy Captain named Arleigh Burke kept the public informed about the Navy side of the case. (Truman and Secretary of Defense Johnson cracked down hard on the Navy and much noise ensued.) Today, Burke is Chief of Naval Operations and on the receiving end this time. For one of the sensational "leaks" of the affair was on the front page (and deservedly so) of the *New York Times*, May 20 — a story disclosing facts from an Air Force document criticizing the big carriers which the Navy has been building, and minimizing their striking and defensive power. It is known that the Air Force long wished to get rebuttal on the carrier question on the front page; now it got there.

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NATO: Suspicion about the real aim of the proposal to expand NATO from a military body into an international economic and political organization increases, in the Capital, as it is learned that Lester Pearson, Canadian diplomat, will play a big role in the business. He is to head a three-man "brain-trust" to work on the matter — the two other diplomats to work with him being Gaetano Martino of Italy and Halvard Lange of Norway.

"Pearson was a Marxist thirty years ago, and probably still is," observed Mr. Jay Sourwine, until recently general counsel for the Senate Internal Security Subcommittee. "He has shown himself to be no friend of the U.S. He has favored the pretensions of the Chinese Communists. He has opposed loyalty checks for U.S. nationals employed by the United Nations and other international organizations. Whatever schemes he devises for the future of NATO are far more likely to be contrary to the interests of the U.S. than contrary to the long-range objectives of the world Communist conspiracy."

Behind the Textile Fight: Southern members of Congress, who once were staunch free traders, now have become ardent protectionists.

Cotton price supports are effective only because we have a virtual prohibition against raw cotton imports. (Import quota is 29,000 bales — largely high grade cottons not produced in the U.S. — out of 9 million bales required.)

The textile industry, including apparel and other finished textile mill products, which employs 14 per cent of manufacturing wage-earners, is the "sick man" of American industry.

Twenty-seven per cent of the production costs of cotton cloth is wages; Japanese wages are 13 cents an hour as compared to $1.37 per hour in the United States. Eighty per cent of Japan's textile industry is modern — new since 1945 — and is as efficient as America's best.

Fifty-three per cent of the production costs of cotton cloth is raw cotton whose price to American manufacturers is artificially high as a result of price supports. Secretary Benson is now endeavoring to sell surplus U.S. cotton in the world market; the discount to foreign manufacturers is likely to be 5 to 8 per cent below the cotton price to U.S. manufacturers. Free trade and price supports, it is often remarked, are not compatible.

U.S. cotton manufacturers' exports, which were $748.8 million in 1947, fell to $242 million in 1955. Imports which were $24 million in 1947 have now climbed to $123 million.

Particular textile items have been especially hard hit by the fast-rising imports. Imports are now taking 70 per cent of the U.S. velveteen market, 30 per cent of the cotton blouse market, and about 30 per cent of the gingham market.

Letter from HUGHSTON M. McBAIN, Chairman of the Board of Marshall Field & Company: "Your publication, HUMAN EVENTS, is still at the top of my reading pleasures each week. Please accept my congratulations on the continued excellence of your letter. I would hate to be without it!"

Judicial Legislation (Cont'd): The Supreme Court's newest invalidation of state laws, in this week's railway labor decision, is a further application of what is coming to be known as the Doctrine of Pre-emption: i.e., that when the Federal Congress legislates in a given field, it pre-empts that field for Federal regulation and precludes states from attempting their own regulation.

Nevertheless, most attorneys are inclined to agree that this decision (a) is confined strictly to areas covered by the Railway Labor Act and does not affect general applicability of state right-to-work laws; and (b) is a far more justifiable ruling than the Court's decision invalidating state sedition laws.

This week's ruling upheld validity of union shop contracts negotiated by several labor unions with the Union Pacific Railroad, whereby the road agreed that all its employees must join one of the unions within 60 days and maintain their membership as a requirement to holding their jobs. The suit was brought by five employees, who said they did not want to join any union, on the basis of a clause in the Nebraska state constitution prohibiting contracts setting forth union membership as a compulsory condition of employment.

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But in this case, Congress in 1951 amended the Federal Railway Labor Act to specifically permit union shop contracts notwithstanding contrary state laws.

On generalized application of right-to-work laws now on the books of 18 states, it's noted that Congress, in the Taft-Hartley law, specifically provided that states could prohibit any form of union shop if they so chose. It is difficult to see how the pre-emption doctrine could be applied under those circumstances.

Many attorneys who were bitterly critical of the sedition law ruling admit that in the railway labor case, Congress did pre-empt the field and interpose its superior authority over state law. They note that the Supreme Court was unanimous in this case, whereas in the sedition law case it split 5 to 4, obviously because there Congress neither sought nor intended to pre-empt the field.

Nevertheless, this week's decision already is being taken as a further evidence of the urgent need for Congressional enactment of the so-called "States' Rights" bill now pending before the Senate and House Judiciary Committees. Congressional observers report that its chances of passage are increasing steadily.

Significant of reaction against the High Court is the comment of Nathan Thorington, Chairman of the Board of the National Right to Work Committee (35 Rust Building, Washington 5, D. C.):

"The decision of the Supreme Court in the Hanson case is a bitter blow to all who love individual freedom and democracy. In effect, it upholds compulsory unionism, or to state it another way, forcing a worker to join a labor union, a private organization, in order to hold a job.

"The Court's attitude now and in the past leads to the melancholy conclusion that our supreme judicial body, the interpreter of the law and Constitution, is zealous in protecting the rights of Communists and persons accused of subversion and treason, but it cares nothing about the civil rights or freedom of the individual worker."

Revisionism: New evidence appeared in the past week to revise propaganda versions of recent history bearing on three vital situations:

(1) The Senate Internal Security Subcommittee produced a former Soviet official called "Amdriyeve," who testified that in 1944 and thereafter he saw, in his office in Moscow, a mass of documents marked "top secret" and "confidential" which came from the Fort Monmouth, New Jersey, Signal Corps laboratories and were obviously stolen by Soviet spies and brought to Moscow for analysis. The material contained — he said — many military secrets and had to do with radar and other electronic devices.

In the McCarthy-Army hearings, Senator McCarthy charged that this Army center in New Jersey had suffered from a grave leakage of military secrets — the Army Department denied the charges. Those in the Capital who watched the Army-McCarthy hearings of two years ago and followed the Amdriyeve revelations of this week in the subcommittee, agree that the latter constitute an impressive confirmation of the Wisconsin Senator's statements of two years ago — statements for which he was subjected to a censure resolution in the Senate.

(2) The notion — propagated by U.S. liberals — that the U.S. suffers from a "witch hunt scare," from which Britain and France have remained happily free, has recently been debunked by the revelations that two British foreign office men, Burgess and Maclean, served as Communist agents, disappeared from England and showed up in Moscow. In the past week, the end of a long legal process in France demonstrated that France too had its share of "inside saboteurs." The trial, which has gone on in Paris for many months, came to an end with the conviction of two civil servants for leaking military secrets. The trial brought a procession of famous French political figures — such as former Premier Mendes France — to the witness box and much evidence that war secrets were leaked, reaching Communist quarters, during the recent Indo-China war.

(3) Mr. Bryton Barron, recently retired State Department official, in a speech at Elmhurst, N. Y. (reproduced in the Brooklyn *Tablet,* April 28) vividly described the lack of security in the

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State Department when Alger Hiss in 1946 gave our position in the Panama Canal a black eye among our Latin American neighbors. Barron in the same speech charged that the American people "cannot trust the present personnel of the State Department to apply our agreements in the nation's interests any more than we can trust it to give us the full facts about our treaties and other international commitments." Barron cited instances of cover-up in the publication of U.S. treaties, negotiated by Roosevelt and Truman, and how secret understandings were never disclosed to the public — to the detriment of the settlement of the last war and the advantage of the Soviet Union.

What Economy? A warning about headlines which report supposed cuts of expenditures in Congress comes from the Council of State Chambers of Commerce (Room 513, 1025 Connecticut Avenue, Washington 6, D. C.), which makes a sort of professionalized hobby of dissecting and probing Congressional legislative activities. This week the Council produces another of its valuably informative studies. This one shows that on the 10 appropriation bills approved by the House thus far in 1956, only about $600,000,000 has been pared from budget requests totalling $50.5 billion, or 1.2 per cent.

"To a large extent," the Council adds, "those reductions are only statistical cuts and will not result in actual savings."

As an example of a "statistical cut," it cites the $512,000,000 purportedly sliced from defense funds requests.

"But only about one-fourth of this total consists of cuts which will force the military services to make savings in their planned programs," it says. "As is clearly noted in the House Appropriations Committee report, $276,000,000 of the reduction is merely a bookkeeping transaction. Of the remaining $236,000,000 in apparent cuts only about $128,000,000 can be identified as actual reductions effected by the Committee with the objective of providing savings."

The report points out that the foreign aid appropriation, yet to come before the House, is "the one best bet for a sizeable cut," inasmuch as the request for that 1957 program is $4,490,000,000 compared to the $2,700,000,000 appropriated last year.

But then reverting to its note of disappointment, the report adds: "There is no reason to believe that the Senate will be any more economy minded than the House, since its normal tendency is to be more generous than the House in enacting appropriation measures."

Electoral Reform: Following defeat of the efforts to pass a bill for reform of the electoral college in March, Senator Karl Mundt (R., S.D.), has worked out a new formula and has introduced it into the Senate (SJ Res. 173). Mundt says the new proposal simplifies the old measure and is framed to meet various objections to the latter which arose during the March debate. The South Dakota Senator offers the new resolution purely as a basis for study, with no intention that it will be acted upon during this session of Congress. Copies of the Resolution together with Mundt's introduction may be obtained from the office of Senator Karl Mundt, Senate Office Building, Washington, D. C.

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Article Section

SUPREME COURT VS. BILL OF RIGHTS

By FRANK CHODOROV

THE real conflict today between the Supreme Court and Congress arises from what amounts to an effort by the Court to repeal one of the fundamental principles of the Constitution:

> **"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."**

This is Article Ten of the Bill of Rights. The meaning seems clear enough. It says that the business of the Federal Government is limited to those matters which the Constitution has specifically put within its province; everything else is out of bounds. Putting it another way, the residuary legatees of all powers not definitely assigned to the central Government are the States.

That's how a layman would understand the article. But, it has come to pass that Article Ten has acquired, by juridical interpretation, a meaning quite the opposite. It now means that when "Congress has occupied a field to the exclusion of parallel State legislation . . . the dominant interest of the Federal Government precludes State intervention." That is to say, if Congress legislates in any field, that field is out of bounds for a State. Furthermore, even if Congress legislates on the fringe of any field, "the conclusion is inescapable that Congress intended to occupy the field." Thus, the Supreme Court supplements the legislation by divining the intent of Congress.

The quotations are from a recent decision of the United States Supreme Court in the case of Pennsylvania vs. Steve Nelson. This man had been convicted of sedition in a Federal Court. Pennsylvania, along with other States, has its own sedition law, and under it had convicted Nelson and sentenced him to imprisonment for a longer term than the Federal Court had given him. He appealed to the Supreme Court on the ground that the Federal Government had pre-empted the field of sedition and that Pennsylvania had no jurisdiction in the matter. The Supreme Court, by a 6 to 3 vote, upheld the contention.

Of course, the quotations are taken "out of context." But, that is exactly what will be done when lawyers offer this decision as a precedent in other cases that will come up. Even in this case, the majority decision quotes (out of context) from another decision (Rice vs. Santa Fe Elevator Corp., 331 U.S.), as follows: "the Federal statutes 'touch a field in which the Federal interest is so dominant that the Federal system [must] be assumed to preclude enforcement of state laws on this same subject.' "

This line of reasoning suggests some interesting speculations. If Congress should pass the pending aid-to-education bill, could not the Supreme Court decide (if the matter were brought to its attention) that in so doing, Congress had intended to pre-empt the entire field of education, even to the extent of deciding on textbooks, and that the States were transgressors if they presumed to legislate in that field? Or, suppose somebody should refuse to pay a State income tax on the ground that the Sixteenth

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Amendment gave the Federal Government a monopoly of income taxation. How would the Supreme Court rule?

The point is that the "occupation of the field" argument reverses the intent and meaning of Article Ten. The Court has decided that the States have no power to act in any area in which Congress has once legislated; furthermore, if Congress has legislated on any specific matter within this area, it must be assumed that Congress intended to cover all of it. There appears to be no field of State authority which the Congress may not invade and therefore pre-empt. Thus, the vaunted autonomy of the States is wiped out and thorough-going centralism has replaced the great American principle of *imperium in imperio*. Article Ten has been repealed by the United States Supreme Court.

An effort to restore to the States some measure of independence, and to prevent their complete reduction to parish status, is now before the House of Representatives. It is a bill called H.R. 3, introduced by Congressman Howard W. Smith (D., Va.), the gist of which is in this first sentence: "That no Act of Congress shall be construed as indicating an intent on the part of Congress to occupy the field in which such Act operates, to the exclusion of all State laws on the subject matter, unless such Act contains express provision to that effect."

It will be observed that H.R. 3 makes no reference to Article Ten, or to any constitutional limitations on the power of Congress vis-a-vis State powers. Even if this bill should become law, Congress could invade fields which are constitutionally and historically reserved to the States; it merely states that (for instance) Congress does not prevent the States from legislating in the field of education just because it has passed one law in that field — "unless such Act contains express provision to that effect." The right of Congress to invade and pre-empt any particular field is not affected. That is, Congress, not the Constitution, may decide on the prerogatives of the States — even as Parliament makes laws for all subdivisions of England, or as the Kremlin decides how its "socialist republics" shall be run.

Nevertheless, even this limited restoration of some State authority is meeting with strenuous opposition. A vigorous attempt is being made to replace H.R. 3 with a bill giving the States authority to legislate in the field of sedition only.

The character of the opposition to H.R. 3 is significant. It is being led by organized labor, with an able assist from the National Association for the Advancement of Colored People. The significance lies in the fact that it indicates how far we have gone in the development of our "democratic" form of Government, in which the interests of powerful pressure groups take precedence over the Constitution.

The laborites' interest in the Nelson decision stems from their dislike of the "right to work" laws that have been enacted by eighteen States, under the aegis of the Taft-Hartley law. If an amenable Congress were to vitiate or repeal this law, could not the Supreme Court decide that under existing laws, Congress has pre-empted the field of labor legislation and thus throw out the "right to work" laws? In any event, the more power the central Government has, the easier it is for labor leaders to impose their will on the whole country; local laws, customs and prejudices could be overridden in one fell swoop. Centralism is the ideal arrangement for pressure groups.

As for the NAACP, their reason for supporting the Nelson decision and opposing H.R. 3 is obvious. They are all for "civil rights," which they interpret to be the uncivil procedure of imposing a politically-determined pattern of behavior on people. They are impatient with suasion. They rest their case on power, and who has more power than the

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central Government? If Congress pre-empts the field of social relations, the State laws will have no effect. True, but what they overlook is that laws result from customs, not the other way around, and that discrimination against Negroes can be exacerbated by attempts from outsiders to eradicate it. No people have ever been made "good" by law; they are frequently made "mad" by it.

Support of H.R. 3 comes from a flock of legal lights from various States, who have the Constitution and reason on their side, but not the votes of the pressure groups.

COUPLED with the desegregation decision, the Nelson decision has aroused an intense interest in the doctrine of States' rights. The arguments of the attorneys general, before the House Subcommittee on the Judiciary in favor of H.R. 3, are reminiscent of Calhoun, and so are a number of editorials on the Nelson decision which have appeared in the public press. Whether anything will come of this enthusiasm depends on the extent to which it is rooted in a disillusionment with centralism; that is, are Americans ready to return to that concept of freedom which found expression in Article Ten, or are we so deeply devoted to the Washington Golden Calf that the idea of freedom strikes us as heresy?

States' rights sprang from fear and distrust of centralized Government. It was not just a political theory worked out in an ivory tower. The 1776 Americans rose in revolt against an impersonal, self-sufficient and arbitrary Government and were in no mood to countenance an American Government built along the same lines. As every schoolboy should know, there were delegates to the Constitutional Convention who favored a Government of practically unlimited powers, and they dropped the idea because they knew the American people would make short shrift of a Constitution that embodied it. The genius of the Americans was against centralism.

But, why? Why did they favor State Governments as against the newly proposed Government? Simply because they knew from experience, and some from history, that their freedom was less likely to be impinged upon by a Government of "neighbors" than by one that was beyond their reach. One could keep one's eyes on the Governor and the State legislature and, if need be, lay one's hands on them. The States cannot print money and there is a sharp limit to the deficit spending in which they can engage. Taxes could be held within reason, enforcement officers could not be arbitrary, the legislators would be more amenable to local customs.

Those early Americans knew what we have forgotten, that inherent in Government, any Government, is an insatiable appetite for power; that it could be contained only by the vigilance and opposition of the governed. But, how can you watch over and resist a Government that is beyond your reach, physically and fiscally? After all, one has enough to do to make a living.

To this understanding of political institutions, the Founding Fathers had to make concessions — if they hoped for ratification. James Madison, the intellectual genius of the convention, went out of his way to assure the people that the Government proposed in the new Constitution could not under its terms invade the rights and powers of the State Governments. In one of his *Federalist Papers,* he made it clear that the proposed Government would in fact be nothing more than the foreign department for the State Governments, which in domestic affairs would be supreme. Nevertheless, ratification came hard, and only the inclusion of the Bill of Rights, with its famous Article Ten, made it possible.

But, neither the Constitution nor the promises of its authors could contain the craving for power that is built into all Government, and the new establishment had hardly been set up before centralism showed its ugly head. It is

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common knowledge that the instrument of transformation was the Supreme Court which, under the leadership of Chief Justice Marshall, was elevated to supremacy in the supposedly co-equal triumvirate of the branches of Government. However, it must be said that while the decisions of John Marshall violated the spirit of the Constitution, they always held within the letter; he was a stickler for the word. It is hardly conceivable that he would have countenanced the decision of Chief Justice Warren, in the Nelson case, which in effect wiped out an important clause of the Constitution.

The importance of Article Ten, in terms of freedom, became evident long after it was written, and in a way the Founding Fathers apparently did not realize. It set up something new in political science, a competitive system of Government. The monopoly of political power was broken by its provision, so that if a citizen found the Government of his State distasteful, he could escape its clutches by moving to another State. It was this choice that kept the respective State Governments from getting out of line with the will of its citizens.

Thus, before the Sixteenth Amendment was enacted, a number of States instituted the income tax. Other States were quick to take advantage of this by advertising their lack of income taxation, thus attracting industry; and men of means transferred their citizenship from States that levied on inheritances to those that did not. The effect was to cause a number of the income taxing States either to drop the levies or to keep them so low that the incentive to move was inconsequential. The citizen had a choice, and choice is the essence of freedom. There was no choice after income taxation became federalized.

THE recurring interest in States' rights in this country is but a version of the recurring struggle of the individual throughout history to attain a measure of freedom. There is only one kind of freedom — freedom from Government. Every acquisition of power by Government, under any pretext, is at the expense of individual freedom. As in the balance scale of the figure of Justice, when the power of Government goes up the power of the people goes down.

Article Ten was put into the Constitution for the specific purpose of preventing this imbalance. Now that the Supreme Court has taken it out of the Constitution, completely, the struggle of those who hold freedom to be the highest human value should be to restore it, in all its pristine beauty. Unfortunately, whenever the issue of States' rights has come up in the past, the detonator has not been the love of freedom, but some sectional and pecuniary interest.

When, in the War of 1812, the British blockade brought ruin to New England industrialists, their Governments invoked States' rights even to the extent of threatening secession; the issue was dropped as soon as the war was over. Again, the South raised the issue when protective tariffs played havoc with the planters' profits. In neither case did the question of freedom play a dominant role.

States' rights has nothing to do with sectional interests. It has nothing to do with the racial question or with the sedition laws of Pennsylvania. It has everything to do with freedom. It is a device invented by our forefathers to prevent the centralization of power, to the detriment of the individual. If the present enthusiasm for this doctrine is to be galvanized into a political movement, a movement to restore Article Ten to the Bill of Rights, it will be only because the spirit of freedom is not dead in this country.

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